

Appendix N

HISTORY OF THE IMPLEMENTATION AGREEMENT

The Implementation Agreement was first developed for the SNPLMA in 1999 by a team of representatives from the BLM, FWS, FS, and NPS. The purpose of the agreement was to address how the Federal agencies could work together to implement the portions of the SNPLMA that require coordination both within the Department of the Interior and between the Department of the Interior and the Department of Agriculture. The team also addressed the requirements related to coordination and consultation with the State of Nevada, local governments, and interested parties. The team assembled a document, entitled *The Federal Partners Charter*, which outlined a collaborative process for developing a recommendation for the Secretary of the Interior regarding the SNPLMA Special Account expenditures. *The Federal Partners Charter* was executed to produce the Round 1 Recommendation for the expenditure of the SNPLMA Special Account.

The lessons learned in executing the process have proven valuable in modifying certain terms of the Charter in order to make the process more efficient and effective. A continuous improvement approach was adopted, and the Charter has been revised on an annual basis.

The first revision, completed in May 2000, added State and local government representatives to the committees that generate the recommendation; added a second public comment opportunity following development of the preliminary recommendation; refined the criteria used to rank nominations for land acquisitions; and renamed the Charter: *The Southern Nevada Public Land Management Act (SNPLMA) Implementation Agreement*.

The second revision, completed in May 2001, added a representative of rural Nevada (appointed by the Governor) to the Partners Working Group; added a fourth representative of local government on the Clark County Projects Sub-Group; added a section on the process and documentation requirements for obligation of and reimbursement from the SNPLMA Special Account following approval; allowed for Federal agencies to be reimbursed for direct labor on capital improvement projects; and changed the SNPLMA Special Account Reserve (SAR) from a percentage (15%) to a fixed amount (\$5 million).

The third revision DATE? , modified the land nomination package requirements, including the requirement to include a “willing agency letter” from the Federal agency that would have management responsibility for the property if acquired; provided for acquisitions and projects to be placed “on-hold” due to extenuating circumstances; allowed, where appropriate, for early appraisal of nominated lands prior to availability of funds; modified funding criteria for all categories, including MSHCP requirements; established definitions and criteria for the Conservation Initiative category, and updated appendices to reflect modifications to documentation requirements for task orders and reimbursement requests.

The fourth revision, completed in June 2004, incorporated the state-level implementation of the FLTFA, modified the land nomination package requirements to incorporate requirements of the FLTFA, adopted definitions and criteria for projects and payment of expenditures for Lake

Tahoe restoration projects, and renamed the Implementation Agreement: *The Southern Nevada Public Land Management Act and Federal Land Transaction Facilitation Act Implementation Agreement*. Other significant administrative and management changes included implementation procedures for expenditure of the Mesquite land sale proceeds; addition of references to regional governmental entities where appropriate and inclusion of these entities in the Park, Trail, and Natural Area subgroup due to their addition as eligible entities for SNPLMA funds under the park, trail, and natural area expenditure category; provided that the amount to be requested for the SNPLMA Special Account Reserve (SAR) shall be determined annually for each round rather than pre-established at \$5 million as previously set for the SNPLMA SAR and allows for a separate Special Account Reserve for the FLTFA; refinement of methods of reimbursement for certain project categories; incorporated changes in reimbursement policies for appraisal costs; modified and clarified allowable costs in all categories; and provided guidelines regarding project equipment; as well as other clarifications and additions to administrative processes and procedures. The changes in allowed costs, processes, and procedures, authorized in the fourth revision apply to all acquisitions and projects which have not yet been completed or terminated.

The fourth revision also set out the process whereby Lake Tahoe Restoration Projects are nominated, selected and recommended parallel to but outside the SNPLMA nomination process carried out by the SNPLMA subgroups and SNPLMA Partners Working Group, with the Final Recommendation for Lake Tahoe being forwarded to the SNPLMA Executive Committee for its consideration and inclusion in the SNPLMA Final Recommendation transmitted to the Secretary of the Interior for approval.

This, the fifth revision, includes several signification modifications. It incorporates the applicable provisions of the Lincoln County Conservation, Recreation, and Development Act of 2004 (P.L. 108-424), and provides for a representative from the BLM Ely Field Office on the capital improvement and conservation initiative subgroups and a representative from Lincoln County on the Park, Trail, and Natural Area subgroup. This revision also includes modifications to reflect determinations made in a February 25, 2005 Office of the Solicitor opinion on “Interpretation of the Southern Nevada Public Land Management Act of 1988 (sic) [1998].” Revisions reflect that SNPLMA funds are considered “appropriated funds” following Secretarial approval, rather than refer to “allowed costs”, this Agreement allows for Necessary Expenses, and removal of a distinction between direct and indirect costs. A list of examples of necessary expenses has also been included. Also of significance are changes in the funding criteria for Capital Improvement, PTNA, Conservation Initiatives, and Land acquisitions. A revised process for addressing project modifications, including approval thresholds for the SNPLMA Division and Partners Working Group is included, as well as a formal process for addressing termination of projects. This revision includes provisions for direct transfer of funds, a Pre-Proposal Planning reserve for pre-design and feasibility studies, revised ranking criteria for all categories except MSHCP and Lake Tahoe, and additional guidance regarding use of SAR funds. Other modifications address clarification and requirements regarding appraisals and determinations under the Uniform Act for acquisition of land and interests in land under the Park, Trail, and Natural Area expenditure category. The provisions for an early appraisals for land acquisitions has been deleted because it is no longer necessary or beneficial given other changes to processes and allowed costs. Other minor administrative and management changes are also included.